II. Remarks

A. Status of the claims

Claims 1-11 are currently pending. Claim 1 has been amended without prejudice. Support for the amendment can be found in the application as originally filed, specifically, e.g., in the Abstract of the Specification. Applicants respectfully submit that no new matter has been added by virtue of this amendment.

B. Claim Rejection Under 35 U.S.C. § 101

In the Office Action, claims 1-11 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Specifically, the Examiner stated that the claims were directed to two separate statutory classes, namely a method and a system.

In response, the claims have been amended to recite "a computer-implemented method for delivering an order to a plurality of exchanges comprising automated exchanges and non-automated exchanges".

Accordingly, Applicants submit that the claims, as amended, are directed to a single statutory class and request that the rejection under 35 U.S.C. § 101 be removed.

C. Claim Rejections Under 35 U.S.C. § 112

In the Office Action, claims 1-11 were rejected under 35 U.S.C. § 112, second paragraph for indefiniteness. Specifically, the Examiner alleged that "the claimed limitations fail to carry out the purpose of the claim, thus putting the preamble into conflict with the limitations". *Office Action* at page 3.

In response, as discussed *supra*, the claims have been amended to recite "a computer-implemented method for delivering an order to a plurality of exchanges comprising automated exchanges and non-automated exchanges". Applicants submit that the limitations of the claims, specifically the limitation of "automatically delivering the order, by the facilitation server to the selected exchange for execution", carry out the purpose of the claim.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 112, second paragraph be removed.

D. Claim Rejections Under 35 U.S.C. § 103(a)

Prior to addressing the present rejections under 35 U.S.C. § 103, Applicants wish to provide the Examiner with a brief description of the presently claimed invention.

The present claims recite, in part, a method for delivering an order to a plurality of exchanges comprising automated exchanges and non-automated exchanges, whereby the method includes automatically selecting either (i) an automated exchange or (ii) a non-automated exchange based on the contracts and electronically stored routing rules.

The present method overcomes problems of the prior art by allowing a user to trade on a plurality of exchanges from a single trading platform. *See Specification* at para. [0003]. For example, "[a] user enters an order into an order entry screen at a global trade workstation. The order is routed to a retail flow facilitation server, which opens a transaction record in a database. The security exchange for the order is then determined. If the order is executable on an automated exchange, then the order is forwarded to that

exchange... [i]f the order is not executable on an automated exchange, then the order is sent to a broker/dealer system that provides order routing for exchanges that have 'open out cry' and electronic systems. Orders are routed to the broker/dealer system, which manages the orders on the relevant trading floor as applicable and returns order fills over the system." *Id.* at paras. [0004]-[0005].

1. Gutterman et al. in view of Patterson, Jr. et al. and Slone

In the Office Action, claims 1, 3, 6-8, 10 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,297,031 to Gutterman et al. in view of U.S. Patent No. 5,774,877 to Patterson, Jr. et al. and U.S. PreGrant Publication No. 2002/0128958 to Slone.

This rejection is respectfully traversed. Applicants submit that the combined teachings of Gutterman et al., Patterson, Jr. et al. and Slone fail to render obvious the computer-implemented methods for delivering an order to a plurality of exchanges comprising automated exchanges and non-automated exchanges, as presently claimed. The Examiner is reminded that pursuant to MPEP, 8th Ed., 7th Rev. § 2142, to establish a prima facie case of obviousness, and thus sustain the rejection of a claim under 35 U.S.C. § 103(a), there must be a clear articulation of the reasons why Applicants' claimed invention would have been obvious. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The Supreme Court in KSR has further noted that an analysis supporting a rejection under 35 U.S.C. § 103(a) should be made explicit. Therefore, it is clear that an obviousness rejection "cannot be sustained with mere conclusory statements; instead, there must be

some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). Moreover, "[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." MPEP, 8th Ed. 7th Rev. § 706.02(j).

Applicants respectfully submit that the combined teachings of Gutterman et al., Patterson, Jr. et al. and Slone specifically fail to obviate the limitation of automatically selecting, by a facilitation server, an automated exchange or a non-automated exchange from the plurality of exchanges for execution of the client order. As discussed *supra*, one of the benefits achieved by the present invention lies in the fact that orders can be executed on *both* automated and non-automated exchanges from a single trading platform. To achieve this, the facilitation server *automatically* determines, based on the contracts and routing rules, which type of exchange the order can be executed on (*i.e.*, automated or non-automated), and selects the appropriate exchange. Applicants submit that, contrary to the Examiner's assertions, Gutterman et al. fail to teach this limitation.

To support his position, the Examiner cites to col. 1, lines 32-37 of Gutterman et al. because it discloses "manual trading execution through the open pit open outcry method", and then cites to col. 1, lines 45-47 of Gutterman et al. because it discloses "firms which are members of exchanges are the intermediaries who bring trading orders to the exchange appropriate for executing the trade of a given security". *Office Action* at page 4. However,

Applicants submit that these cited portions of Gutterman et al. fail to obviate the claimed limitations. Initially, Applicants point out that the Gutterman et al. system merely allows the user to enter an order electronically or manually (*see, e.g., Gutterman* et al. at col. 6, liens 41-45), which is not the same as *automatically* determining whether an order should be delivered to an automated exchange or a non-automated exchange. Applicants further submit that the cited portion of Gutterman et al. directed to the firms being used as intermediaries to bring an order to the appropriate exchange fails to describe what type of exchange (*i.e.*, automated or non-automated as recited in the present claims). Additionally, Applicants point out that these firms are not facilitation servers, as recited in the present claims, and thus Gutterman et al. fail to obviate *automatically selecting*, by a *facilitation server*, an *automated exchange or a non-automated exchange* from the plurality of exchanges for execution of the client order.

With respect to Patterson, Applicants submit that Patterson, Jr. et al. is directed to methods of delegating instructions to a floor broker, and fails to describe automatically selecting, by a facilitation server, an automated exchange or a non-automated exchange from the plurality of exchanges for execution of the client order, as presently claimed. Thus Patterson, Jr. et al. fails to cure the deficiencies of Gutterman et al.

With respect to Slone, Applicants submit that Slone is directed international securities trading, and fails to describe automatically selecting, by a facilitation server, an automated exchange or a non-automated exchange from the plurality of exchanges for execution of the client order, as presently claimed. Thus Slone et al. also fails to cure the deficiencies of Gutterman et al.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be removed.

2. Gutterman et al. in view of Patterson, Jr. et al., Slone and AAPA

In the Office Action, claims 2, 4, 5 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gutterman et al. in view of Patterson, Jr. et al., Slone and Applicants Admitted Prior Art (AAPA).

This rejection is traversed. For the reasons discussed *supra* and incorporated herein, Applicants submit that the combined teachings of Gutterman et al., Patterson, Jr. et al. and Slone fail to obviate the present claims.

With respect to AAPA, Applicants submit that AAPA is not directed to automatically selecting, by a facilitation server, an automated exchange or a non-automated exchange from the plurality of exchanges for execution of the client order, as presently claimed. Thus AAPA fails to cure the deficiencies of Gutterman et al.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103 (a) be removed.

III. Conclusion

In view of the amendments made and arguments presented, it is believed that all claims are in condition for allowance. If the Examiner believes that issues may be resolved by a telephone interview, the Examiner is invited to telephone the undersigned at (973)597-6162. The undersigned also may be contacted via e-mail at epietrowski@lowenstein.com. All correspondence should be directed to our address listed below.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 50-1358.

Respectfully submitted,
Lowenstein Sandler PC

Date: May 7, 2010

s /Elizabeth Pietrowski/
By: Elizabeth Pietrowski
Attorney for Applicants
Registration No. 52,121

DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 Livingston Avenue
Roseland, NJ 07068
General Tel.: 973-597-2500